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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,099	11/19/2003	Melissa Dee Aquino	7346C	7304

27752 7590 11/02/2004

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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/717,099

Applicant(s)

AQUINO ET AL.

Examiner

Luan K Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Caggiano (4,861,632). Caggiano discloses a container having an opening for receiving the contents comprising a bag having liquid impervious walls (3) with inner and outer surfaces, an absorbent material (4) disposed on the inner surface of the container may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) which is considered equivalent to an odor-neutralizing composition such as silica as claimed and a liquid pervious liner (5, 6) positioned adjacent the absorbent material. The container of Caggiano is inherently capable of receiving food wastes.

3. Claims 1-6 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kannankeril (4,927,010). Kannankeril discloses a container having an opening for receiving the contents (C) comprising a bag (10) having liquid impervious walls (27, 28) with inner and outer surfaces, an absorbent material (35, 36) disposed on the inner surface of the container may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) which is considered equivalent to an odor-neutralizing composition as claimed and a liquid pervious liner (33, 34, 40, 41) positioned adjacent the absorbent material. The container of Kannankeril is inherently capable of receiving food wastes.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of the Trinh et al. (5,429,628; hereinafter Trinh'628). Caggiano or Kannankeril discloses the container as above having all the limitations of the claims except for the odor-neutralizing composition comprises a chelating agents or antimicrobial agent. Trinh'628 shows an absorbent article having an odor control system comprising the combination of a cyclodextrin with other odor controlling materials such as chelating agents, zeolite or antimicrobial compound and others (see abstract, column 16, lines 48-61 and claim 20). It would have been obvious to one having ordinary skill in the art in view of Trinh'628 to modify the odor-neutralizing composition of Caggiano or Kannankeril so it includes chelating agents or antimicrobial agent for better controlling the odor and with respect to the range of the agent is depended on the size of the container.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of The Official Notice and Siklosi et al. (6,759,006; hereinafter Siklosi'006). Caggiano discloses the container as above having all the limitations of the claims except for a closure flap being connected to at least one of the liquid

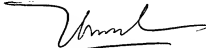
impervious walls. Kannankeril discloses the container as above having all the limitations of the claims. Kannankeril further discloses other suitable closures such as adhesive flaps or other liquid impervious closures may be suitable (column 3, lines 15-16) except for a closure flap being connected to at least one of the liquid impervious walls. Official Notice is taken of the old and conventional practice of providing a bag having a closure flap for sealing an opening of the bag. Siklosi'006, is cited by way of example only, shows a bag having an opening with a closure flap (5) attached to an outer surface of the bag for closure the opening (Figure 6). It would have been obvious to one having ordinary skill in the art in view of Official Notice and Siklosi'006 to modify the container of Caggiano or Kannankeril so the container includes a closure flap is connected to at least one of the liquid impervious walls for better opening and closing the container.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
October 28, 2004



Luan K. Bui  
Primary Examiner